

REMARKS

This responds to the Office Action dated February 12, 2007. Claims 1-4, 18-19, 22, 29, 31-32. No claims are added or canceled. As a result, claims 1-32 are pending in this patent application.

Interview Summary

Applicant thanks Examiners Rex Holmes and George Evanisko for extending the courtesy of a telephone interview on May 2, 2007 with Applicant's representatives Paul Urbanski and Suneel Arora. The interview addressed use of the term "absolute time" in the claims. Although no agreement was reached, the Examiners provided helpful guidance with respect to the claim language.

§112 Rejection of the Claims

1. Claims 1-32 were rejected under 35 U.S.C. § 112, first paragraph, as lacking enablement. The Office Action asserts that in order to have a smaller window for absolute time the device must transmit data in real time to an external device, and claims 1 and 18 fail to mention a device for transmitting data in real time.¹ The Office Action also asserts that the claims are missing critical elements since it is unknown how the controller can read absolute time from just a value that rolls over every few minutes, and the some other element or step critical in order to achieve a timestamp representing absolute time in combination with the other elements of the claim to represent absolute time.² Applicant believes claims 1 and 18 have been amended in a manner indicated in the Office Action to be allowable under 35 U.S.C. § 112, first paragraph. Therefore, Applicant respectfully requests reconsideration and allowance of claims 1-32.

2. Claims 1-32 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. The Office Action asserts that the "within a window of absolute time that rolls over every few minutes" is vague and unclear as absolute time does not roll over every few minutes.³ Claims 1

¹ Office Action, pg. 2.

² Office Action, pg. 3.

³ Office Action, pg. 4.

and 18 are amended to clarify that timestamp provides a time referenced to a clock circuit time window of a clock circuit that is rolling over. Applicant respectfully submits that the present amendments are fully supported by the present specification, such as in the Application at page 8, lines 1-4 and elsewhere in the specification. Accordingly, Applicant respectfully requests reconsideration and allowance of claims 1-32.

§103 Rejection of the Claims

1. Claims 1-10, 16-23 and 28-32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Holschbach et al. (U.S. Patent No. 5,312,446, “Holschbach”) in view of Lebel et al. (U.S. 2002/0065540, “Lebel”). Applicant has amended the claims to overcome this rejection.

Applicant respectfully submits that no *prima facie* obviousness presently exists because all elements presently recited or incorporated in these rejected claims are not taught or suggested in the proposed combination of Holschbach and Lebel. For example, Applicant cannot find in the proposed combination of Holschbach and Lebel any teaching of, among other things, a controller circuit using a timestamp referenced to a clock circuit time window of a clock circuit that rolls over every few minutes, as similarly recited or incorporated in these claims.

For example, the cited portions of Lebel instead refer to “the running relative time counter.”⁴ Thus, Lebel relates to relative timing of a cardiac event with respect to a preceding cardiac event. Therefore, one of ordinary skill in the art would be led to using relative timing from the combination of Holschbach and Lebel instead of using a timestamp referenced to a clock circuit time window of a clock circuit that rolls over every few minutes, as similarly recited or incorporated in these claims. Accordingly, Applicant respectfully requests reconsideration and allowance of claims 1-10, 16-23 and 28-32.

2. Claims 11-15 and 24-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Holschbach in view of Lebel as applied to claims 1-10, 16-23 and 28-31 above and further in view of Owen et al. (U.S. Patent No. 6,427,083, “Owen”). Applicant respectfully requests reconsideration.

⁴ Lebel, ¶¶387, 389.

Claims 11-15 ultimately depend on base claim 1 and claims 24-27 ultimately depend on base claim 18. Applicant believes base claims 1 and 18 to be allowable at least for the reasons set forth above. Applicant respectfully requests reconsideration and allowance of claims 11-15 and 24-27.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6951 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.


Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 14 day of May 2007.

Name

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